

PIPELINE SAFETY IMPROVEMENT ACT OF 2006

---

DECEMBER 5, 2006.—Ordered to be printed

---

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5782]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5782) to amend title 49, United States Code, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Pipeline Safety Improvement Act of 2006”.

(b) **AMENDMENT OF TITLE 49, UNITED STATES CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) **TABLE OF CONTENTS.**—

- Sec. 1. Short title; amendment of title 49, United States Code; table of contents.
- Sec. 2. Pipeline safety and damage prevention.
- Sec. 3. Distribution integrity management program rulemaking deadline.
- Sec. 4. Pipeline control room management.
- Sec. 5. Low-stress pipelines.
- Sec. 6. Authorization of appropriations.
- Sec. 7. Standards to implement NTSB recommendations.
- Sec. 8. Accident reporting form.
- Sec. 9. Leak detection technology study.
- Sec. 10. Petroleum transportation capacity study.
- Sec. 11. Emergency waivers.
- Sec. 12. Pipeline safety information grants to communities.
- Sec. 13. Memorandum of understanding.

**SEC. 2. PIPELINE SAFETY AND DAMAGE PREVENTION.**

(a) **ONE-CALL CIVIL ENFORCEMENT.**—

(1) **IN GENERAL.**—Section 60114 is amended by adding at the end the following:

59–006

“(d) ENFORCEMENT.—Any person who engages in excavation activity without first using an available one-call notification system to establish the location of underground pipeline facilities in the excavation area or who disregards location information or markings established by an operator of a pipeline facility, and any operator of a pipeline facility who fails to respond to a location request in order to prevent damage to the pipeline or fails to take reasonable steps, in response to such a request, to ensure accurate marking of the location of the pipeline in order to prevent damage to the pipeline, shall be subject to a civil action under section 60120 or assessment of a civil penalty under section 60122.

“(e) LIMITATION.—The Secretary may not conduct an enforcement proceeding under subsection (d) within the boundaries of a State that has the authority to impose penalties described in section 60134(b)(7) against persons who violate that State’s damage prevention laws and is imposing such penalties.”.

(2) CONFORMING AMENDMENT.—Section 60122(a)(1) is amended in the first sentence by inserting “, 60114(d),” after “section 60114(b)”.

(b) STATE DAMAGE PREVENTION PROGRAMS.—

(1) CERTIFICATION.—Section 60105(b)(4) is amended to read as follows:

“(4) has agreed to take actions toward establishing a program designed to prevent damage by excavation, demolition, tunneling, or construction activity to the pipeline facilities to which the certification applies that subjects persons who violate the applicable requirements of that program to civil penalties and other enforcement actions that are substantially the same as are provided under this chapter, and addresses the elements in section 60134(b);”.

(2) REQUIREMENT.—Chapter 601 is amended by adding at the end the following new section:

**“§ 60134. State damage prevention programs**

“(a) IN GENERAL.—The Secretary may make a grant to a State authority (including a municipality with respect to intrastate gas pipeline transportation) to assist in improving the overall quality and effectiveness of a damage prevention program of the State authority under subsection (e) if the State authority—

“(1)(A) has an annual certification in accordance with section 60105 for such fiscal year; or

“(B) has an agreement with the Secretary in accordance with section 60106; and

“(2) has agreed to take actions toward establishing an effective damage prevention program that meets the requirements of subsection (b).

“(b) DAMAGE PREVENTION PROGRAM ELEMENTS.—An effective damage prevention program includes the following elements:

“(1) Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate.

“(2) A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program.

“(3) A process for reviewing the adequacy of a pipeline operator’s internal performance measures regarding persons performing locating services and quality assurance programs.

“(4) Participation by operators, excavators, and other stakeholders in the development and implementation of effective employee training programs to ensure that operators, the one-call center, the enforcing agency, and the excavators have partnered to design and implement training for the employees of operators, excavators, and locators.

“(5) A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.

“(6) A process for resolving disputes that defines the State authority’s role as a partner and facilitator to resolve issues.

“(7) Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority.

“(8) A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs.

“(9) A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

“(c) FACTORS TO CONSIDER.—In making grants under this section, the Secretary shall take into consideration the commitment of each State to ensuring the effectiveness of its damage prevention program, including legislative and regulatory actions taken by the State.

“(d) APPLICATION.—If a State authority files an application for a grant under this section not later than September 30 of a calendar year and demonstrates that the Governor (or chief executive) of the State has designated it as the appropriate State authority to receive the grant, the Secretary shall review the State’s damage prevention program to determine its effectiveness.

“(e) GRANTS FOR EFFECTIVE PROGRAMS.—For a program of a State authority the Secretary determines to be effective, the Secretary may make a grant to the State authority for the cost of the personnel, equipment, and activities the State authority reasonably requires during the next calendar year to carry out its damage prevention program in accordance with subsection (b).

“(f) NONAPPLICABILITY OF LIMITATION.—A grant made under this section is not subject to the section 60107(a) limitation on the maximum percentage of funds to be paid by the Secretary.

“(g) LIMITATION ON USE OF FUNDS.—Funds provided under this section may not be used for lobbying or in direct support of litigation.

“(h) FUNDING.—To carry out this section, the Secretary shall make available (from amounts appropriated to the Secretary under section 60125(b) for each of fiscal years 2008 through 2010) the following respective amounts:

“(1) \$1,500,000 for fiscal year 2008.

“(2) \$1,750,000 for fiscal year 2009.

“(3) \$2,000,000 for fiscal year 2010.

Such funds shall remain available until expended.”.

(3) CLERICAL AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

“60134. State damage prevention programs.”.

(c) STATE PIPELINE SAFETY GRANTS.—Section 60107(a) is amended by striking “not more than 50 percent” and inserting “not more than 80 percent”.

#### SEC. 3. DISTRIBUTION INTEGRITY MANAGEMENT PROGRAM RULEMAKING DEADLINE.

Section 60109 is amended by adding at the end the following:

“(e) DISTRIBUTION INTEGRITY MANAGEMENT PROGRAMS.—

“(1) MINIMUM STANDARDS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall prescribe minimum standards for integrity management programs for distribution pipelines.

“(2) ADDITIONAL AUTHORITY OF SECRETARY.—In carrying out this subsection, the Secretary may require operators of distribution pipelines to continually identify and assess risks on their distribution lines, to remediate conditions that present a potential threat to line integrity, and to monitor program effectiveness.

“(3) EXCESS FLOW VALVES.—The minimum standards shall include criteria for requiring operators of natural gas distribution systems—

“(A) to install excess flow valves on single-family residential service lines that are installed or replaced after the date of enactment of this subsection on the basis of feasibility and risk analysis; and

“(B) to report to the Secretary annually on the number of excess flow valves installed on their systems under subparagraph (A).

“(4) APPLICABILITY.—The Secretary shall determine which distribution pipelines will be subject to the minimum standards.

“(5) DEVELOPMENT AND IMPLEMENTATION.—Each operator of a distribution pipeline that Secretary determines is subject to the minimum standards prescribed by the Secretary under this subsection shall develop and implement an integrity management program in accordance with those standards.”.

#### SEC. 4. PIPELINE CONTROL ROOM MANAGEMENT.

(a) STANDARDS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall issue regulations establishing standards for managing gas and hazardous liquid pipelines to reduce risks associated with human factors, including fatigue.

(b) RISK EVALUATION.—In carrying out this section, the Secretary may require operators of gas and hazardous liquid pipelines to evaluate the risks associated with human factors, including fatigue, and take measures to reduce such risks with respect to their pipelines.

(c) APPLICABILITY.—The Secretary shall determine which pipelines are subject to the standards issued under this section.

(d) **RISK MANAGEMENT.**—Each operator of a pipeline that the Secretary determines is subject to the standards established by the Secretary under this section shall manage the controllers of the pipeline in accordance with those standards.

**SEC. 5. LOW-STRESS PIPELINES.**

Section 60102(k) is amended by striking the subsection designation and heading and inserting the following:

“(k) **LOW-STRESS HAZARDOUS LIQUID PIPELINES.**—

“(1) **MINIMUM STANDARDS.**—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall issue minimum standards for the transportation of hazardous liquids by low-stress pipelines located in proximity to areas unusually sensitive to environmental damage as defined by the Secretary under section 60109(b) and by regulation.

“(2) **LOW-STRESS PIPELINE DEFINED.**—For purposes of this subsection (other than paragraph (5)), a ‘low-stress pipeline’ means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe of the pipeline and has a diameter of greater than 8<sup>5</sup>/<sub>8</sub> inches.

“(3) **APPLICABILITY.**—The Secretary shall determine which low-stress pipelines are subject to the minimum standards issued under this subsection.

“(4) **REQUIREMENT.**—Each operator of a low-stress pipeline that the Secretary determines is subject to the minimum standards issued by the Secretary under this subsection shall operate the pipeline in accordance with those standards.

“(5) **PROHIBITION AGAINST EXCEPTION.**—”.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

(a) **GAS AND HAZARDOUS LIQUID.**—Section 60125(a) is amended to read as follows:

“(a) **GAS AND HAZARDOUS LIQUID.**—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

“(1) For fiscal year 2007, \$55,497,000, of which \$39,872,000 is to be derived from user fees collected under section 60301 and \$15,625,000 is to be derived from the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986.

“(2) For fiscal year 2008, \$57,997,000, of which \$42,651,000 is to be derived from such fees and \$15,346,000 is to be derived from the Fund.

“(3) For fiscal year 2009, \$60,482,000, of which \$44,839,000 is to be derived from such fees and \$16,003,000 is to be derived from the Fund.

“(4) For fiscal year 2010, \$62,375,000, of which \$46,444,000 is to be derived from such fees and \$15,931,000 is to be derived from the Fund.”.

(b) **STATE GRANTS.**—Section 60125(b)(1) is amended to read as follows: “(1) To carry out section 60107, the following amounts are authorized to be appropriated to the Department of Transportation:

“(A) For fiscal year 2007, \$20,238,000, of which \$17,053,000 is to be derived from user fees collected under section 60301 and \$3,185,000 is to be derived from the Oil Spill Liability Trust Fund.

“(B) For fiscal year 2008, \$23,221,000, of which \$19,567,000 is to be derived from such fees and \$3,654,000 is to be derived from the Fund. Of the amounts so appropriated, \$1,500,000 shall be available for grants to States under section 60134.

“(C) For fiscal year 2009, \$24,513,000, of which \$20,656,000 is to be derived from such fees and \$3,857,000 is to be derived from the Fund. Of the amount so appropriated, \$1,750,000 shall be available for grants to States under section 60134.

“(D) For fiscal year 2010, \$25,855,000, of which \$21,786,000 is to be derived from such fees and \$4,069,000 is to be derived from the Fund. Of the amount so appropriated, \$2,000,000 shall be available for grants to States under section 60134.”.

(c) **CONFORMING AMENDMENTS.**—Section 60125 is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(d) **EMERGENCY RESPONSE GRANTS.**—Section 60125(c)(2) (as redesignated by subsection (c)(2) of this section) is amended by striking “2003 through 2006” and inserting “2007 through 2010”.

(e) **ONE-CALL NOTIFICATION PROGRAMS.**—Section 6107 is amended—

(1) in subsection (a) by striking “fiscal years 2003 through 2006” and inserting “fiscal years 2007 through 2010”; and

(2) in subsection (b) by striking “for fiscal years 2003 through 2006” and inserting “for fiscal years 2007 through 2010”.

#### SEC. 7. STANDARDS TO IMPLEMENT NTSB RECOMMENDATIONS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall issue standards that implement the following recommendations contained in the National Transportation Safety Board's report entitled "Supervisory Control and Data Acquisition (SCADA) in Liquid Pipelines" and adopted November 29, 2005:

- (1) Implementation of the American Petroleum Institute's Recommended Practice 165 for the use of graphics on the supervisory control and data acquisition screens.
- (2) Implementation of a standard for pipeline companies to review and audit alarms on monitoring equipment.
- (3) Implementation of standards for pipeline controller training that include simulator or noncomputerized simulations for controller recognition of abnormal pipeline operating conditions, in particular, leak events.

#### SEC. 8. ACCIDENT REPORTING FORM.

Not later than 12 months after the date of enactment of this Act, the Secretary of Transportation shall amend accident reporting forms to require operators gas and hazardous liquid pipelines to provide data related to controller fatigue.

#### SEC. 9. LEAK DETECTION TECHNOLOGY STUDY.

Not later than 12 months after the date of enactment of this Act, the Secretary of Transportation shall submit to Congress a report on leak detection systems utilized by operators of hazardous liquid pipelines. The report shall include a discussion of the inadequacies of current leak detection systems, including their ability to detect ruptures and small leaks that are ongoing or intermittent, and what can be done to foster development of better technologies as well as address existing technological inadequacies.

#### SEC. 10. PETROLEUM TRANSPORTATION CAPACITY STUDY.

(a) IN GENERAL.—Chapter 601 (as amended by section 2(b)(2) of this Act) is further amended by adding at the end the following:

##### "§ 60135. Petroleum product transportation capacity study

"(a) IN GENERAL.—The Secretary of Transportation may conduct analyses of the domestic transport of petroleum products by pipeline. Such analyses should identify areas of the United States where shortages of pipeline capacity and reliability concerns exist, where such shortages have or are anticipated to contribute to significant increases in the price of petroleum products, or where unplanned loss of individual pipelines may cause shortages of petroleum products or price disruptions.

"(b) CONSULTATION.—In preparing any analysis under this section, the Secretary may consult with other government agencies and public- and private-sector experts in pipeline and other forms of petroleum product transportation, energy consumption, capacity, population and economic development.

"(c) PETROLEUM PRODUCT DEFINED.—In this section, the term 'petroleum product' means oil of any kind or in any form, gasoline, diesel fuel, aviation fuel, fuel oil, kerosene, any product obtained from refining or processing of crude oil, liquefied petroleum gases, natural gas liquids, petrochemical feedstocks, condensate, waste or refuse mixtures containing any of such oil products, and any other liquid hydrocarbon compounds."

(b) CLERICAL AMENDMENT.—The analysis for chapter 601 (as amended by section 2(b)(3) of this Act) is amended by adding after the item relating to section 60134 the following:

"60135. Petroleum product transportation capacity study."

#### SEC. 11. EMERGENCY WAIVERS.

Section 60118(c) is amended to read as follows:

"(c) WAIVERS BY SECRETARY.—

"(1) NONEMERGENCY WAIVERS.—

"(A) IN GENERAL.—On application of a person owning or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate if the waiver is not inconsistent with pipeline safety.

"(B) HEARING.—The Secretary may act on a nonemergency waiver under this paragraph only after notice and an opportunity for a hearing.

"(2) EMERGENCY WAIVERS.—The Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate without prior notice and comment if the Secretary determines that the waiver is necessary to address an actual or im-

pending emergency involving pipeline transportation, including emergencies caused by natural or manmade disasters.

“(3) STATEMENT OF REASONS.—The Secretary shall state in an order issued under this subsection the reasons for granting the waiver.”.

#### SEC. 12. PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.

Section 60130(d) is amended by striking “2006” and inserting “2010”.

#### SEC. 13. MEMORANDUM OF UNDERSTANDING.

Not later than 45 days after the date of enactment of this Act, the Secretary of Transportation shall develop and execute an annex to the memorandum of understanding between the Secretary and the Secretary of Homeland Security, dated September 28, 2004, to define and clarify the role and responsibility of the Department of Transportation regarding pipeline security, including the processes that the Department will follow to promote communications, efficiency, and nonduplication of effort.

### PURPOSE OF THE LEGISLATION

H.R. 5782 reauthorizes federal pipeline safety programs under the management of the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation for fiscal years 2007 through 2010. These programs provide for enhanced safety and environmental protection in pipeline transportation, and provide for enhanced reliability in the transportation of the Nation’s energy products by pipeline.

### BACKGROUND AND NEED FOR THE LEGISLATION

The nation’s pipelines are a transportation system that enables the safe movement of extraordinary quantities of energy products to industry and consumers, literally fueling our economy and way of life. The arteries of the Nation’s energy infrastructure, as well as the safest and least costly ways to transport energy products, our oil and gas pipelines provide the resources needed for national defense, heat and cool our homes, generate power for business and fuel an unparalleled transportation system.

The Office of Pipeline Safety (OPS) is the federal safety authority for the nation’s 2.3 million miles of natural gas, petroleum and other hazardous liquid pipelines. The OPS mission is to ensure the safe, reliable, and environmentally sound operation of the nation’s pipeline transportation system through the development of regulations and other approaches to risk management to assure safety in design, construction, testing, operation, maintenance, and emergency response of pipeline facilities. The OPS is an office within the Pipeline and Hazardous Materials Safety Administration (PHMSA), an agency created in the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108–426). Before passage of this Act, the OPS was an office with the Research and Special Programs Administration. The OPS is responsible for regulating and enforcing the safety of interstate liquid and gas pipelines.

The pipeline safety programs were last authorized under the Pipeline Safety Improvement Act of 2002 (Public Law 107–355), a four-year authorization for fiscal years 2003 through 2006. H.R. 5782 extends the pipeline safety programs another four years, through fiscal year 2010. These programs include: operational funds for OPS to carry out its regulatory and enforcement functions; State pipeline safety grants that cover up to 50 percent of State personnel, equipment and activity costs to carry out OPS-

certified pipeline safety inspection activities; emergency response grants; public education and one-call damage prevention programs; and grants to provide engineering and other scientific analysis of pipeline safety issues in local communities.

The purpose of the bill is to reauthorize these programs for four years. The pipeline safety programs managed by the OPS have been very effective. The number of hazardous liquid pipeline accidents has decreased dramatically over the last 20 years, both as measured in number of accidents and in number of barrels of petroleum product lost. However, there is room for improvement. In March, a leak in Alaska's Prudhoe Bay low-stress pipelines (pipelines that operate at less than 20 percent of the specified minimum strength of the material from which they are constructed) prompted PHMSA to develop safety regulations specifically for low-stress pipelines. Another area PHMSA had identified as needing improvement was the need for federal civil authority to enforce one-call laws in states that do not have adequate enforcement. Most gas or hazardous pipeline accidents occur when pipelines are damaged by excavation activity. One-call damage prevention programs identify where underground pipeline facilities are located, and mark the locations of such facilities to ensure that the pipelines are not damaged by excavation work.

For fiscal years 2007 through 2010, H.R. 5782 authorizes about \$362 million to be appropriated from a combination of: The pipeline safety fund, comprised of user fees assessed on interstate pipeline operators on a per-mile basis; the Oil Spill Liability Trust Fund (OSLTF), a revolving fund comprised of an environmental tax on petroleum and oil spill damage recovery payments; and non-defense discretionary general funds. Funds authorized from the pipeline safety fund are scored as offsets against the total funding level; about \$253 million of the funds authorized under H.R. 5782 will be offset by the collection of fees paid by pipeline operators over the four-year period. The Office of Pipeline Safety's operational account, gas and hazardous liquid, is authorized for a total of \$236,351,000 over four years, of which \$173,806,000 is to be derived from the pipeline safety fund and \$62,905,000 is to be derived from the OSLTF. The State grants program is authorized for a total of \$93,827,000, of which \$79,062,000 is to be derived from the pipeline safety fund and \$14,765,000 is to be derived from the OSLTF. In fiscal years 2008 through 2010, an aggregate total of \$5,250,000 is set-aside from the State Grants program for the new State Damage Prevention Program incentive grants established under section 2(b) of the bill. The Emergency Response grants are authorized for a total of \$24,000,000, to be derived from the general fund. The one-call notification program is authorized for \$4,000,000, to be derived from the general fund. Pipeline safety information grants to communities are funded at \$4,000,000 for fiscal years 2007 through 2010, to be derived from the general fund.

#### SUMMARY OF THE LEGISLATION

##### *Section 1. Short title; Amendment of title 49, United States Code; Table of contents*

This section states the bill's short title as the "Pipeline Safety Improvement Act of 2006." All amendments to and repeals of sec-

tions or other provisions are considered to be made to a section or other provision of title 49, United States Code. The section also sets for a table of contents for the bill.

### *Section 2. Pipeline safety and damage prevention*

Subsection 2(a) provides PHMSA with new federal civil authority to enforce one-call laws in states that do not have adequate enforcement. This enforcement authority is “balanced” in the sense that it could be used on an operator who fails to respond to a location request or fails to accurately mark the location of a pipeline as well as an excavator who fails to use the one-call system or disregards location information or markings. The authority is limited to civil penalties. The authority is further limited to states that do not have civil penalties in place to enforce damage prevention processes. This provision is intended to be an incentive to states that do not have state civil penalty authority to enforce state damage prevention processes to establish them. Until they do, PHMSA will enforce civil penalties. This provision was developed in partnership with underground facility owners, and excavators, and is supported by both groups.

Subsection 2(b) provides guidance to States on elements for an effective underground damage program and incentives to States that adopt and implement a comprehensive program that meets the guidance. It establishes a grant program to incentivize states with annual certifications or interstate agent agreements to have an effective damage prevention program, and authorizes an appropriation for PHMSA to make grants to the appropriate State agency (designated by the governor) for carrying out State damage prevention programs if the programs meet certain minimum standards for effectiveness. Currently, State damage prevention programs tend to vary widely state to state. Outside force damage is a leading cause of release incidents.

### *Section 3. Distribution integrity management program rulemaking deadline*

This section requires PHMSA to issue rules to establish a distribution integrity management program (DIMP) which operators must implement. PHMSA has worked for several years in a consensus-building process to develop the contents of a DIMP for operators of distribution lines. Interstate gas transmission lines operate under an integrity management program established in part in the 2002 pipeline reauthorization. Liquid line operators also operate under an integrity management program. This provision requires PHMSA to promulgate the DIMP within 1 year of enactment of the legislation. The provision has been carefully crafted to avoid disturbing the rulemaking process, which might cause the loss of valuable time and consensus. This provision includes a requirement that the DIMP provide risk and feasibility analysis for excess flow valves where the line to the residence is being installed or replaced.

### *Section 4. Pipeline control room management*

This section directs PHMSA to develop standards to reduce risks in the control room associated with human factors, including operator fatigue. The Secretary would promulgate rules on standards



that include limits on the length of controller shifts to guard against fatigue. PHMSA would further produce additional standards that operators would implement in their management plans. In the past month, PHMSA has begun consensus building meetings with stakeholders to help develop PHMSA's effort. This section has been carefully crafted to avoid upsetting that consensus process.

*Section 5. Low-stress pipelines*

This section directs PHMSA to develop regulations for the operation of low-stress hazardous liquid pipelines. In March of this year, PHMSA announced its intention to regulate low-stress pipelines through a rulemaking process as a result of a leak incident in Alaska. This provision requires that regulation to be completed within one year of enactment of this legislation. This provision has been carefully crafted to avoid altering the work that has occurred to date at PHMSA on low-stress line regulation.

*Section 6. Authorization of appropriations*

This section provides authorizations for Office of Pipeline Safety programs for fiscal years 2007 through 2010, a 4-year authorization period.

*Section 7. Standards to implement NTSB recommendations*

This section directs PHMSA to implement NTSB recommendations from the Board on Supervisory Control and Data Acquisition (SCADA) operations relating to American Petroleum Institute's Recommended Practice 165 which include the review and audit of alarms, standards for controller training, and improvements to SCADA monitors.

*Section 8. Accident reporting form*

This section requires the Secretary of Transportation to amend accident reporting forms to require operators of pipelines to provide data related to controller work schedules and fatigue.

*Section 9. Leak detection technology study*

This section directs the Secretary to complete a report to Congress on the adequacy of pipeline leak detection systems not later than 1 year after the date of enactment.

*Section 10. Petroleum transportation capacity study*

This section authorizes the Secretary to conduct a study on petroleum product transportation capacity. The report will identify areas of the United States where shortages of pipeline capacity and reliability concerns exist.

*Section 11. Emergency waivers*

This section provides Emergency Waiver authority to the Secretary. This new section outlines the procedures by which the Secretary may waive certain aspects of Chapter 601 of Title 49 in non-emergency and emergency situations. Nothing in this section is intended to affect the Secretary's authority to revoke a nonemergency waiver.

*Section 12. Pipeline safety information grants to communities*

This section extends the authorization of pipeline safety information grants to communities through fiscal year 2010.

*Section 13. Memorandum of understanding*

This section directs the Secretary of Transportation to develop and execute an annex to the memorandum of understanding between the Departments of Transportation and Homeland Security to define and clarify the roles and responsibilities of the Department of Transportation regarding pipeline security.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

The Subcommittee on Highways, Transit, and Pipelines held hearings on pipeline safety oversight on June 16, 2004 and March 16, 2006; the full Committee on Transportation and Infrastructure held a hearing on low pressure liquid pipelines in Prudhoe Bay, Alaska on September 13, 2006. The hearings included witnesses from PHMSA, the Department of Transportation Inspector General, the Government Accountability Office, the National Transportation Safety Board, the Cook Inletkeeper and Pipeline Safety Trust, and the BP oil company.

H.R. 5782 was introduced on July 13, 2006, by Representatives Don Young and Thomas E. Petri, and was co-sponsored by 19 other members of the Committee on Transportation and Infrastructure. The bill was referred to the Committee on Transportation and Infrastructure, with an additional referral to the Committee on Energy and Commerce.

The Committee on Transportation and Infrastructure met in open markup session on July 19, 2006, and discharged the Subcommittee on Highways, Transit, and Pipelines from consideration of the bill. A manager's amendment was offered by Subcommittee Chairman Petri, which made minor changes to the bill, including shortening the authorization period of the bill from 6 years to 5 years. The manager's amendment also added four new sections to the end of the bill (sections 8 through 11). The amendment was adopted by voice vote. An amendment was offered by Mr. Oberstar, which was subsequently amended, that shortened the authorization period further, to 4 years. The amendment was adopted by voice vote. An amendment was offered by Mr. Larsen that extended the authorization of pipeline safety information grants to communities. The amendment was adopted by voice vote. An amendment was offered by Mr. Pascrell that directed the Secretary of Transportation to develop and execute, within 45 days of enactment, a pipeline security annex to the Department of Transportation-Department of Homeland Security memorandum of understanding, clarifying the roles and responsibilities of the Department of Transportation departments regarding pipeline security. The amendment was adopted by voice vote. H.R. 5782 was ordered favorably reported, as amended, and was approved by voice vote. The Committee on Energy and Commerce met in open markup session on September 27, 2006, and approved H.R. 5782 by a voice vote, with amendments.

## ROLL CALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each roll call vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no roll call votes in subcommittee or full committee consideration of H.R. 5782.

## COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

## COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report.

Such a cost estimate is included in this report.

## COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to reauthorize the federal pipeline safety programs and improve the safety oversight of the Office of Pipeline Safety.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5782 from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 13, 2006.*

Hon. DON YOUNG,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5782, the Pipeline Safety Improvement Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Gregory Waring (for federal costs), Sarah Puro (for the state and local impact), and Fatimot Ladipo (for the private-sector impact).

Sincerely,

DONALD B. MARRON,  
*Acting Director.*

Enclosure.

*H.R. 5782—Pipeline Safety Improvement Act of 2006*

Summary: Under current law, the Pipeline and Hazardous Materials Safety Administration (PHMSA) within the Department of Transportation (DOT) oversees the safety of pipelines that carry either gas or hazardous liquids and provides grants to states for pipeline safety programs. For these activities, H.R. 5782 would authorize gross appropriations of about \$330 million over the 2007–2010 period. Under the bill, about \$253 million of those appropriations would be offset by the collection of fees paid by pipeline operators over the five-year period.

In addition, the bill would authorize the appropriation of \$24 million over the 2007–2010 period for PHMSA to provide grants to local governments for emergency management and would authorize the appropriation of \$8 million over the period for grants to state programs that help excavators coordinate their work with the operators of underground pipelines and grants to local communities to improve pipeline safety. Finally, CBO estimates that implementing certain studies and rules required by the bill would cost about \$1 million over the 2007–2010 period, assuming appropriation of the necessary amounts.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 5782 would have a net cost of \$93 million over the 2007–2011 period. Enacting H.R. 5782 also would affect revenues, but CBO estimates that such effects would not be significant. Enacting the bill would not affect direct spending.

H.R. 5782 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate costs to state, local, and tribal governments, while uncertain, likely would not exceed the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation).

H.R. 5782 also contains private-sector mandates, as defined in UMRA, on operators of distribution and transmission pipelines for natural gas or liquids by increasing fees and imposing new safety standards. Because many of those mandates would require the Department of Transportation to prescribe new safety standards for which information currently is not available, CBO cannot determine the direct costs of complying with all of the mandates in the bill or whether the costs would exceed the annual threshold established by UMRA (\$128 million for private-sector mandates in 2006, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5782 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION <sup>a</sup>						
Pipeline Safety Spending Under Current Law:						
Estimated Net Budget Authority <sup>b</sup> .....	14	0	0	0	0	0
Estimated Outlays .....	12	34	10	2	0	0
Proposed Changes:						
Estimated Net Authorization level <sup>b</sup> .....	0	28	27	28	28	0
Estimated Net Outlays .....	0	–15	13	22	25	48

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
Pipeline Safety Spending Under H.R. 5782:						
Estimated Authorization Level .....	14	28	27	28	28	0
Estimated Outlays .....	12	19	23	24	25	48

<sup>a</sup> H.R. 5782 also would increase revenues, but CBO estimates that those effects would not be significant.

<sup>b</sup> The amounts shown are the difference between the bill's authorized funding levels, estimated outlays, and estimated fee collections for each year.

**Basis of estimate:** For this estimate, CBO assumes that H.R. 5782 will be enacted near the start of fiscal year 2007 and that the authorized amounts will be appropriated for each year. Outlay estimates are based on the historical spending patterns of pipeline safety programs.

CBO estimates that implementing H.R. 5782 would cost \$93 million over the 2007–2011 period. This estimate includes net spending of about \$63 million for PHMSA's oversight activities and grants to state safety programs, reflecting the difference between gross authorized appropriations of about \$330 million over the 2007–2010 period and authorized collections of almost \$253 million from pipeline user fees over the same period. The gross authorization for those activities would average more than \$80 million a year, and the fees would average more than \$60 million a year. By comparison, the gross appropriation for those pipeline safety activities was \$72 million in 2006, and CBO estimates that fee collections will total \$58 million.

H.R. 5782 would impose civil penalties on any person who excavates in areas containing pipeline facilities without verifying the location of the pipelines or any person who fails to use location information provided at the site. Collections of these penalties are recorded in the budget as revenues. CBO estimates that implementing this legislation would increase penalties by less than \$500,000 a year.

**Estimated impact on state, local, and tribal governments:** H.R. 5782 contains intergovernmental mandates as defined in UMRA because it would place new requirements on operators of natural gas pipelines—including about 1,000 that are publicly operated. Specifically, section 3 would require pipeline operators to place certain equipment on service lines installed or repaired after enactment of the bill. The bill also would impose new federal standards for pipeline operators as well as new reporting requirements. Based on information from industry and governmental sources, CBO estimates that the aggregate costs to state, local, and tribal governments, while uncertain, likely would not exceed the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation).

**Estimated impact on the private sector:** H.R. 5782 contains private-sector mandates, as defined in UMRA, on operators of distribution and transmission pipelines for natural gas or liquids by increasing fees and imposing new safety standards. Because many of those mandates would require DOT to prescribe new safety standards for which information currently is not available, CBO cannot determine the direct costs of complying with all of the mandates in the bill or whether the costs would exceed the annual threshold established by UMRA (\$128 million for private-sector mandates in 2006, adjusted annually for inflation).

*Pipeline safety fees*

Section 2 contains a mandate on gas and liquid transmission operators. Under current law the Secretary collects fees from pipeline operators to offset a large portion of its gross appropriations. The provisions in this section would authorize the Secretary of Transportation to increase the pipeline safety user fee assessed to those operators. In general, the amount of fees collected under the bill would depend on the level of future appropriations. CBO expects that the annual fees collected over the 2007–2010 period would be higher than they were in previous years and that the fees collected would average more than \$60 million a year over that period. By comparison, CBO estimates that fee collections in 2006 will total \$58 million.

*Safety requirements*

The bill would require operators of distribution pipelines to comply with a new distribution integrity management program to be established by DOT. Additionally, the bill would impose new federal standards for managing gas and hazardous liquid pipelines to reduce risks associated with human factors, including fatigue on all pipeline operators. Further, the bill would impose a new standard on all liquid pipeline operators, requiring them to implement some of the National Transportation Safety Board's recommendations on pipeline safety. Because the integrity management program and the safety standards would depend on the actions to be taken by the Secretary of Transportation, CBO has no basis for estimating the costs to the industry to comply with those regulations.

The bill also would require operators of gas and hazardous liquid pipelines to provide data relating to controller fatigue when completing Department of Transportation accident reporting forms. According to industry sources, the cost of complying with this mandate would be nominal.

Estimate prepared by: Federal Costs: Gregory Waring. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Fatimot Ladipo.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104–4).

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 5782 does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

## APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1).

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

## TITLE 49, UNITED STATES CODE

\* \* \* \* \*

## SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

\* \* \* \* \*

## CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

\* \* \* \* \*

## § 6107. Authorization of appropriations

(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 \$1,000,000 for each of **[fiscal years 2003 through 2006]** *fiscal years 2007 through 2010*.

(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out sections 6103, 6104, and 6105 **[for fiscal years 2003 through 2006]** *for fiscal years 2007 through 2010*.

\* \* \* \* \*

## SUBTITLE VIII—PIPELINES

\* \* \* \* \*

## CHAPTER 601—SAFETY

Sec.

60101. Definitions.

\* \* \* \* \*

60134. *State damage prevention programs.*

60135. *Petroleum product transportation capacity study.*

\* \* \* \* \*

### § 60102. Purpose and general authority

(a) \* \* \*

\* \* \* \* \*

[(k) PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION.]

(k) *LOW-STRESS HAZARDOUS LIQUID PIPELINES.*—

(1) *MINIMUM STANDARDS.*—*Not later than 1 year after the date of enactment of this paragraph, the Secretary shall issue minimum standards for the transportation of hazardous liquids by low-stress pipelines located in proximity to areas unusually sensitive to environmental damage as defined by the Secretary under section 60109(b) and by regulation.*

(2) *LOW-STRESS PIPELINE DEFINED.*—*For purposes of this subsection (other than paragraph (5)), a “low-stress pipeline” means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe of the pipeline and has a diameter of greater than 8<sup>5</sup>/<sub>8</sub> inches.*

(3) *APPLICABILITY.*—*The Secretary shall determine which low-stress pipelines are subject to the minimum standards issued under this subsection.*

(4) *REQUIREMENT.*—*Each operator of a low-stress pipeline that the Secretary determines is subject to the minimum standards issued by the Secretary under this subsection shall operate the pipeline in accordance with those standards.*

(5) *PROHIBITION AGAINST EXCEPTION.*—*The Secretary may not provide an exception to this chapter for a hazardous liquid pipeline facility only because the facility operates at low internal stress.*

\* \* \* \* \*

### § 60105. State pipeline safety program certifications

(a) \* \* \*

(b) *CONTENTS.*—*Each certification submitted under subsection (a) of this section shall state that the State authority—*

(1) \* \* \*

\* \* \* \* \*

[(4) is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;]

*(4) has agreed to take actions toward establishing a program designed to prevent damage by excavation, demolition, tunneling, or construction activity to the pipeline facilities to which the certification applies that subjects persons who violate the*



*applicable requirements of that program to civil penalties and other enforcement actions that are substantially the same as are provided under this chapter, and addresses the elements in section 60134(b);*

\* \* \* \* \*

#### **§ 60107. State pipeline safety grants**

(a) **GENERAL AUTHORITY.**—If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay [not more than 50 percent] *not more than 80 percent* of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year—

(1) \* \* \*

\* \* \* \* \*

#### **§ 60109. High-density population areas and environmentally sensitive areas**

(a) \* \* \*

\* \* \* \* \*

(e) **DISTRIBUTION INTEGRITY MANAGEMENT PROGRAMS.**—

(1) **MINIMUM STANDARDS.**—*Not later than 1 year after the date of enactment of this subsection, the Secretary shall prescribe minimum standards for integrity management programs for distribution pipelines.*

(2) **ADDITIONAL AUTHORITY OF SECRETARY.**—*In carrying out this subsection, the Secretary may require operators of distribution pipelines to continually identify and assess risks on their distribution lines, to remediate conditions that present a potential threat to line integrity, and to monitor program effectiveness.*

(3) **EXCESS FLOW VALVES.**—*The minimum standards shall include criteria for requiring operators of natural gas distribution systems—*

(A) *to install excess flow valves on single-family residential service lines that are installed or replaced after the date of enactment of this subsection on the basis of feasibility and risk analysis; and*

(B) *to report to the Secretary annually on the number of excess flow valves installed on their systems under subparagraph (A).*

(4) **APPLICABILITY.**—*The Secretary shall determine which distribution pipelines will be subject to the minimum standards.*

(5) **DEVELOPMENT AND IMPLEMENTATION.**—*Each operator of a distribution pipeline that Secretary determines is subject to the minimum standards prescribed by the Secretary under this subsection shall develop and implement an integrity management program in accordance with those standards.*

\* \* \* \* \*

### § 60114. One-call notification systems

(a) \* \* \*

\* \* \* \* \*

(d) *ENFORCEMENT.*—Any person who engages in excavation activity without first using an available one-call notification system to establish the location of underground pipeline facilities in the excavation area or who disregards location information or markings established by an operator of a pipeline facility, and any operator of a pipeline facility who fails to respond to a location request in order to prevent damage to the pipeline or fails to take reasonable steps, in response to such a request, to ensure accurate marking of the location of the pipeline in order to prevent damage to the pipeline, shall be subject to a civil action under section 60120 or assessment of a civil penalty under section 60122.

(e) *LIMITATION.*—The Secretary may not conduct an enforcement proceeding under subsection (d) within the boundaries of a State that has the authority to impose penalties described in section 60134(b)(7) against persons who violate that State's damage prevention laws and is imposing such penalties.

\* \* \* \* \*

### § 60118. Compliance and waivers

(a) \* \* \*

\* \* \* \* \*

[(c) *WAIVERS BY SECRETARY.*—On application of a person owning or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate, if the waiver is not inconsistent with pipeline safety. The Secretary shall state the reasons for granting a waiver under this subsection. The Secretary may act on a waiver only after notice and an opportunity for a hearing.]

(c) *WAIVERS BY SECRETARY.*—

(1) *NONEMERGENCY WAIVERS.*—

(A) *IN GENERAL.*—On application of a person owning or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate if the waiver is not inconsistent with pipeline safety.

(B) *HEARING.*—The Secretary may act on a nonemergency waiver under this paragraph only after notice and an opportunity for a hearing.

(2) *EMERGENCY WAIVERS.*—The Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate without prior notice and comment if the Secretary determines that the waiver is necessary to address an actual or impending emergency involving pipeline transportation, including emergencies caused by natural or manmade disasters.

(3) *STATEMENT OF REASONS.*—*The Secretary shall state in an order issued under this subsection the reasons for granting the waiver.*

\* \* \* \* \*

#### **§ 60122. Civil penalties**

(a) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section 60114(b), 60114(d), or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$100,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is \$1,000,000.

\* \* \* \* \*

#### **§ 60125. Authorization of appropriations**

[(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

[(1) \$45,800,000 for fiscal year 2003, of which \$31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

[(2) \$46,800,000 for fiscal year 2004, of which \$35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

[(3) \$47,100,000 for fiscal year 2005, of which \$41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

[(4) \$50,000,000 for fiscal year 2006, of which \$45,000,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.】

(a) *GAS AND HAZARDOUS LIQUID.*—*To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:*

*(1) For fiscal year 2007, \$55,497,000, of which \$39,872,000 is to be derived from user fees collected under section 60301 and \$15,625,000 is to be derived from the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986.*

*(2) For fiscal year 2008, \$57,997,000, of which \$42,651,000 is to be derived from such fees and \$15,346,000 is to be derived from the Fund.*

*(3) For fiscal year 2009, \$60,482,000, of which \$44,839,000 is to be derived from such fees and \$16,003,000 is to be derived from the Fund.*

*(4) For fiscal year 2010, \$62,375,000, of which \$46,444,000 is to be derived from such fees and \$15,931,000 is to be derived from the Fund.*

(b) STATE GRANTS.—[(1) Not more than the following amounts may be appropriated to the Secretary to carry out section 60107 of this title:

[(A) \$19,800,000 for fiscal year 2003, of which \$14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

[(B) \$21,700,000 for fiscal year 2004, of which \$16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

[(C) \$24,600,000 for fiscal year 2005, of which \$19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

[(D) \$26,500,000 for fiscal year 2006, of which \$21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.](1) *To carry out section 60107, the following amounts are authorized to be appropriated to the Department of Transportation:*

*(A) For fiscal year 2007, \$20,238,000, of which \$17,053,000 is to be derived from user fees collected under section 60301 and \$3,185,000 is to be derived from the Oil Spill Liability Trust Fund.*

*(B) For fiscal year 2008, \$23,221,000, of which \$19,567,000 is to be derived from such fees and \$3,654,000 is to be derived from the Fund. Of the amounts so appropriated, \$1,500,000 shall be available for grants to States under section 60134.*

*(C) For fiscal year 2009, \$24,513,000, of which \$20,656,000 is to be derived from such fees and \$3,857,000 is to be derived from the Fund. Of the amount so appropriated, \$1,750,000 shall be available for grants to States under section 60134.*

*(D) For fiscal year 2010, \$25,855,000, of which \$21,786,000 is to be derived from such fees and \$4,069,000 is to be derived from the Fund. Of the amount so appropriated, \$2,000,000 shall be available for grants to States under section 60134.*

\* \* \* \* \*

[(c) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, \$8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this chapter for each of fiscal years 2003 through 2006.]

[(d)] (c) EMERGENCY RESPONSE GRANTS.—

(1) \* \* \*

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$6,000,000 for each of fiscal years [2003 through 2006] *2007 through 2010* to carry out this subsection.

[(e)] (d) CREDITING APPROPRIATIONS FOR EXPENDITURES FOR TRAINING.—The Secretary may credit to an appropriation authorized under subsection (a) amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

\* \* \* \* \*

**§ 60130. Pipeline safety information grants to communities**

(a) \* \* \*

\* \* \* \* \*

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section \$1,000,000 for each of the fiscal years 2003 through [2006] 2010. Such amounts shall not be derived from user fees collected under section 60301.

\* \* \* \* \*

**§ 60134. State damage prevention programs**

(a) *IN GENERAL.*—The Secretary may make a grant to a State authority (including a municipality with respect to intrastate gas pipeline transportation) to assist in improving the overall quality and effectiveness of a damage prevention program of the State authority under subsection (e) if the State authority—

(1)(A) has an annual certification in accordance with section 60105 for such fiscal year; or

(B) has an agreement with the Secretary in accordance with section 60106; and

(2) has agreed to take actions toward establishing an effective damage prevention program that meets the requirements of subsection (b).

(b) *DAMAGE PREVENTION PROGRAM ELEMENTS.*—An effective damage prevention program includes the following elements:

(1) Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate.

(2) A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program.

(3) A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs.

(4) Participation by operators, excavators, and other stakeholders in the development and implementation of effective employee training programs to ensure that operators, the one-call center, the enforcing agency, and the excavators have partnered to design and implement training for the employees of operators, excavators, and locators.

(5) A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.

(6) A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues.

(7) Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority.

(8) A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may en-

hance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs.

(9) A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

(c) *FACTORS TO CONSIDER.*—In making grants under this section, the Secretary shall take into consideration the commitment of each State to ensuring the effectiveness of its damage prevention program, including legislative and regulatory actions taken by the State.

(d) *APPLICATION.*—If a State authority files an application for a grant under this section not later than September 30 of a calendar year and demonstrates that the Governor (or chief executive) of the State has designated it as the appropriate State authority to receive the grant, the Secretary shall review the State's damage prevention program to determine its effectiveness.

(e) *GRANTS FOR EFFECTIVE PROGRAMS.*—For a program of a State authority the Secretary determines to be effective, the Secretary may make a grant to the State authority for the cost of the personnel, equipment, and activities the State authority reasonably requires during the next calendar year to carry out its damage prevention program in accordance with subsection (b).

(f) *NONAPPLICABILITY OF LIMITATION.*—A grant made under this section is not subject to the section 60107(a) limitation on the maximum percentage of funds to be paid by the Secretary.

(g) *LIMITATION ON USE OF FUNDS.*—Funds provided under this section may not be used for lobbying or in direct support of litigation.

(h) *FUNDING.*—To carry out this section, the Secretary shall make available (from amounts appropriated to the Secretary under section 60125(b) for each of fiscal years 2008 through 2010) the following respective amounts:

- (1) \$1,500,000 for fiscal year 2008.
- (2) \$1,750,000 for fiscal year 2009.
- (3) \$2,000,000 for fiscal year 2010.

Such funds shall remain available until expended.

### **§ 60135. Petroleum product transportation capacity study**

(a) *IN GENERAL.*—The Secretary of Transportation may conduct analyses of the domestic transport of petroleum products by pipeline. Such analyses should identify areas of the United States where shortages of pipeline capacity and reliability concerns exist, where such shortages have or are anticipated to contribute to significant increases in the price of petroleum products, or where unplanned loss of individual pipelines may cause shortages of petroleum products or price disruptions.

(b) *CONSULTATION.*—In preparing any analysis under this section, the Secretary may consult with other government agencies and public- and private-sector experts in pipeline and other forms of petroleum product transportation, energy consumption, capacity, population and economic development.

(c) *PETROLEUM PRODUCT DEFINED.*—In this section, the term “petroleum product” means oil of any kind or in any form, gasoline, diesel fuel, aviation fuel, fuel oil, kerosene, any product obtained

*from refining or processing of crude oil, liquefied petroleum gases, natural gas liquids, petrochemical feedstocks, condensate, waste or refuse mixtures containing any of such oil products, and any other liquid hydrocarbon compounds.*

\* \* \* \* \*

